

**State of California**  
**DEPARTMENT OF INDUSTRIAL RELATIONS**  
**Division of Workers' Compensation**

**NOTICE OF MODIFICATION TO TEXT OF  
PROPOSED REGULATIONS  
(Subject Matter: Workers' Compensation  
Vocational Rehabilitation Regulations  
Title 8, California Code of Regulations Sections 10122 et seq.)**

**NOTICE IS HEREBY GIVEN** that pursuant to Labor Code Sections 133, 139.5, and 5307.3, and Government Code Section 11346.8(c), the Administrative Director of the Division of Workers' Compensation proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 10133.12      Form RU-94 "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions

The proposed modifications are in response to comments received during the public comment period ending on October 25, 2002.

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Guia Carreon, Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
Post Office Box 420603  
San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on **Friday, November 15, 2002**. Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (415) 703-4720. Written comments may also be sent electronically (via e-mail), using the following e-mail address: [dwcrules@hq.dir.ca.gov](mailto:dwcrules@hq.dir.ca.gov).

## AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 455 Golden Gate Avenue, 9th Floor, San Francisco, California.

Please contact the Division's regulations coordinator, Ms. Guia Carreon, at (415) 703-4600 to arrange to inspect the rulemaking file.

The specific modifications proposed include changes to the text of the Section 10133.12 (Form RU-94, "Notice of Offer of Modified or Alternative Work" and Form Filing Instructions).

### FORMAT OF PROPOSED MODIFICATIONS

A copy of the modified proposal text is attached, utilizing the following formats to indicate changes:

#### **July 2002 Proposal:**

Deletions from the codified regulatory text are indicated by strike-through, thus: ~~deleted language~~.

Additions to the codified regulatory text are indicated by underlining, thus: underlined language.

The proposed Forms (Form RU-94 and Form RU-122) and Instructions were presented without underlining or strike-through.

#### **First 15-Day Proposal**

**(Period ending Oct. 25, 2002):**

Deletions from the amended regulatory text, as proposed in July 2002, are indicated by double strike-through underline, thus: ~~~~deleted language~~~~.

Additions to the regulatory text, as proposed in July 2002, are indicated by a double underline, thus: added language.

Deletions from the Forms, as proposed in July 2002, are indicated by double strike-through, thus: ~~~~deleted language~~~~.

Additions to the Forms, as proposed in July 2002, are indicated by a double underline, thus: added language.

#### **This 15-Day Proposal**

**(Period ending Nov. 15, 2002):**

Deletions, as proposed in July 2002, are indicated by double underline and double strike-through, thus: ~~~~deleted language~~~~.

## SUMMARY OF PROPOSED CHANGES

### Modifications to section 10133.12

### Form RU-94 “Notice of Offer of Modified or Alternative Work” and Form Filing Instructions

The Form RU-94 has been modified. The following statement has been deleted: “All employees must present documents required for completion of INS Form I-9 prior to starting modified or alternative work.” The statement has been deleted in response to comments which indicated that this requirement would violate federal law, specifically the Immigration Reform and Control Act of 1986 (IRCA), 8 U.S.C. §1324a(b), which limits an employer’s obligation to verify an employee’s employment eligibility to “hiring, recruiting, or referring an individual for employment.” Additionally, the language conflicts with 8 C.F.R. 274a.2(b)(1)(viii) which defines continuing employment as including situations where an individual takes approved paid or unpaid leave on account of illness or other temporary leave approved by the employer.